IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 29 OF 2006

MR. ARNOLD BRAGANZA, MAPUSA-GOA ....Petitioners
AND 2 ORS.,

Versus

SMT. KAMLABAI PANDURANG CHANEKAR, ...Respondent
MAPUSA GOA.

Shri J. E. Coelho Pereira, Senior Advocate with Shri V. Korgaonkar, Advocate for the petitioners.

Coram:- R.M.S. KHANDEPARKAR, J.

Date:- 2nd February, 2006

P.C.

The learned Senior Counsel appearing for the petitioners states that by the impugned Judgment and Order dated 14.2.2002, the first appellate Court while reversing the decree passed by the trial Court has remanded the matter with specific direction to frame an additional issue on the point of locus standi and to decide the suit afresh. Consequently, the impugned Judgment and Order is in exercise of powers under Order 41, Rule 23-A of C.P.C. Being so, the order is squarely appealable in terms of provisions of law comprised under Order 43-1(u) of C.P.C. The learned Senior Counsel has stated that the petitioners have already filed a second appeal against the impugned order being Second Appeal No. 35/02 and that has been already admitted by this Court. He, however, has fairly submitted that he will have to pray for conversion of the said second appeal into an appeal from order. The learned Senior Counsel while asking for liberty prays for withdrawal of the writ petition. Petiton is, accordingly, allowed to be withdrawn with the said liberty. The petition, accordingly, stands disposed of.

R.M.S. KHANDEPARKAR, J.

ssm.